

APPEAL NO. 010502

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 8, 2001. With regard to the unresolved issues, the hearing officer determined that the respondent's (claimant) compensable injury of _____, extends to and includes the claimant's right carpal tunnel syndrome (CTS), right shoulder, and cervical area. The appellant (carrier) appeals, contending that the hearing officer's decision on that issue is against the great weight of the medical evidence. In addition, the hearing officer determined that the carrier did not waive the right to dispute the neck injury. That determination by the hearing officer has not been appealed and has become final. There is no response from the claimant.

DECISION

Affirmed.

The claimant sustained a compensable right wrist injury on _____. The claimant was employed by (employer) as a private pay collector, working about 44 hours per week. The claimant also testified about the repetitive nature of her job. She stated that she had to speak on the telephone many hours a day, cradling the phone between her neck and shoulder as she typed at her computer terminal. The claimant also testified that her desk was too high, causing her computer terminal to be at a height where she had to look up to see the monitor. The claimant testified that she told her employer about her injury. On _____, the employer completed an incident report which stated "wrist injury due to typing (has progressed into pain in hand & shoulder)." The hearing officer determined that on _____, the claimant presented to Dr. E and was diagnosed with right CTS. The hearing officer also noted that "Dr. [E's] medical reports were consistent in that Claimant reported pain not only to her right hand/wrist but also to her arm, shoulder and neck." There was other conflicting medical evidence.

The hearing officer found that "the compensable injury of _____ does extend to and include the Claimant's right [CTS], right shoulder and cervical area." The carrier claims the hearing officer's decision "is against the great weight and preponderance of the medical evidence and should be overruled." In support of its position, the carrier points out several doctor's reports to show there was evidence in support of its position.

There were conflicting medical records concerning whether the claimant had CTS, a shoulder injury, and a neck injury. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). As an appellate-reviewing tribunal, the Appeals Panel will not disturb the challenged factual

findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer's decision is supported by sufficient evidence and accordingly, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge